

ESTTA Tracking number: **ESTTA570314**

Filing date: **11/12/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

|                                       |   |
|---------------------------------------|---|
| Name                                  | CA'DA MOSTO S.P.A.                              |
| Granted to Date of previous extension | 11/13/2013                                      |
| Address                               | Via Venezia 146<br>Scorze' (VE), 30037<br>ITALY |

|                      |  |
|----------------------|--|
| Attorney information | Nicholas D. Wells<br>Wells IP Law, LLC<br>299 S. Main St., Suite 1300<br>Salt Lake City, UT 84111<br>UNITED STATES<br>nwells@wellsiplaw.com Phone:801-444-7143 |
|----------------------|--|

### Applicant Information

|                        |   |                        |            |
|------------------------|---|------------------------|------------|
| Application No         | 85862301  | Publication date       | 07/16/2013 |
| Opposition Filing Date | 11/12/2013  | Opposition Period Ends | 11/13/2013 |
| Applicant              | -SEVNTY9<br>517 E 60th Drive<br>Merrillville, IN 46410<br>INDIA |                        |            |

### Goods/Services Affected by Opposition


|   |
|---|
| Class 025. First Use: 2012/10/00 First Use In Commerce: 2012/10/00<br>All goods and services in the class are opposed, namely: Hats; Jackets; Pants; Shirts; Socks; Sweatshirts; T-shirts |
|---|

### Grounds for Opposition

|   |   |
|---|---|
| False suggestion of a connection                | Trademark Act section 2(a)                  |
| Priority and likelihood of confusion            | Trademark Act section 2(d)                  |
| <i>Torres v. Cantine Torresella S.r.l.Fraud</i> | 808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986) |

### Mark Cited by Opposer as Basis for Opposition

|                       |            |                       |            |
|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3342381    | Application Date      | 04/24/2002 |
| Registration Date     | 11/27/2007 | Foreign Priority Date | 02/28/2002 |
| Word Mark             | SEVENTY    |                       |            |

|                     |  |
|---------------------|--|
| Design Mark         |    |
| Description of Mark | NONE   |
| Goods/Services      | Class 025. First use: First Use: 0 First Use In Commerce: 0<br>CLOTHING, NAMELY, VESTS, PULLOVERS, SWEATSHIRTS, SUSPENDERS AND FOULARDS, SHIRTS, WAISTCOATS, TROUSERS, SKIRTS, MEN'S SUITS AND WOMEN'S DRESSES, JACKETS, HEAVYJACKETS, OVERCOATS, TOP-COATS, CLOAKS, RAINCOATS, WIND-RESISTANT JACKETS, STOCKINGS, SOCKS, GYMSUITS, BELTS, TIES, GLOVES, SCARVES; FOOTWEAR, HEADWEAR |

|             |   |
|-------------|---|
| Attachments | 76399742#TMSN.gif( bytes )<br>SEVENTY9 TTAB Opposition.pdf(17401 bytes )<br>Opposers SEVENTY Registration 3342381.pdf(31779 bytes ) |
|-------------|---|

### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

|           |                   |
|-----------|-------------------|
| Signature | /Nicholas Wells/  |
| Name      | Nicholas D. Wells |
| Date      | 11/12/2013        |



2. CA'DA MOSTO is the owner of U.S. trademark registration number 3342381 ("Opposer's Registration"), registered November 27, 2007 for SEVENTY (and Design) for "CLOTHING, NAMELY, VESTS, PULLOVERS, SWEATSHIRTS, SUSPENDERS AND FOULARDS, SHIRTS, WAISTCOATS, TROUSERS, SKIRTS, MEN'S SUITS AND WOMEN'S DRESSES, JACKETS, HEAVY JACKETS, OVERCOATS, TOP-COATS, CLOAKS, RAINCOATS, WIND-RESISTANT JACKETS, STOCKINGS, SOCKS, GYMSUITS, BELTS, TIES, GLOVES, SCARVES; FOOTWEAR, HEADWEAR," filed April 24, 2002 and having a priority date of February 28, 2002.
3. CA'DA MOSTO is a leading provider of high-fashion clothing under its SEVENTY trademark.
4. The priority and filing dates of Opposer's Registration precede the filing date of the opposed Application.
5. Opposer's Registration is valid and subsisting.
6. CA'DA MOSTO has expended significant resources in developing, advertising, and promoting its high fashion products in the United States and throughout the world. Through such advertising and promotion, CA'DA MOSTO has developed valuable goodwill in its SEVENTY mark. As such, Opposer's SEVENTY mark is closely associated with CA'DA MOSTO in the minds of consumers and the SEVENTY mark serves as a strong source identifier for the goods provided by CA'DA MOSTO.

7. On information and belief, Applicant -SEVNTY9 is a limited liability company registered in Indiana and having an address at 517 E 60th Drive, Merrillville, Indiana 46410.
8. Upon information and belief, Applicant knew of Opposer's rights in the SEVENTY mark before filing the opposed Application.

### **LIKELIHOOD OF CONFUSION**

#### **Section 2(d) of the Lanham Act, 15 U.S.C. Section 1052(d)**

9. CA'DA MOSTO re-alleges the allegations in Paragraphs 1 through 8 of this Notice of Opposition.
10. The trademark that Applicant seeks to register so resembles Opposer's SEVENTY mark in appearance, sound, meaning, and commercial impression that the use and registration thereof is likely to cause confusion, mistake, and deception as to the source or origin of Applicant's Goods in violation of Section 2(d) of the Lanham Act, 15 U.S.C. Section 1052(d), and will injure and damage Opposer and the goodwill and reputation symbolized by Opposer's SEVENTY mark.
11. The use of the SEVENTY mark by Opposer predates the filing date of the Application; consequently there is no question of priority of rights, as such priority clearly belongs to CA'DA MOSTO.
12. Applicant's Goods are identical to or are so related to the goods offered by CA'DA MOSTO in connection with its SEVENTY mark that the public is likely to be confused, deceived, and to assume erroneously that Applicant's Goods are those of CA'DA MOSTO or that Applicant is in some way connected with,

- licensed, or sponsored by or affiliated with CA'DA MOSTO, all to the irreparable damage of CA'DA MOSTO.
13. Likelihood of confusion is enhanced by the fact that Opposer's SEVENTY mark is strong, famous, well-known, and entitled to a broad scope of protection.
14. Applicant is not affiliated or connected with CA'DA MOSTO and has not been endorsed or sponsored by CA'DA MOSTO nor has CA'DA MOSTO approved any of Applicant's Goods to be sold by Applicant under its alleged trademark.
15. Applicant has never obtained permission from CA'DA MOSTO to use Applicant's alleged -SEVNTY9 mark nor has CA'DA MOSTO approved any of Applicant's Goods to be offered under Applicant's alleged -SEVNTY9 mark.

**FRAUD**

**808 F.2d 46, 1 USPQ2d 1483 (Fed Cir. 1986)**

16. CA'DA MOSTO re-alleges the allegations contained in Paragraphs 1 through 15 of this Notice of Opposition.
17. In the Application for the alleged -SEVNTY9 mark, Applicant has committed prosecution fraud on the USPTO.
18. Upon information and belief, Applicant knowingly made false and material misrepresentations in the filing of the Application.
19. In the filing of Applicant's Application, Applicant declared that "he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association

has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.”

20. Upon information and belief, at the time such declaration was made by Applicant, Applicant was aware of Opposer’s use of and rights in the SEVENTY mark.

21. Upon information and belief, said false declaration was made with the intent to induce authorized agents of the USPTO to approve the Application for registration and, reasonably relying upon the truth of said false declaration, the USPTO did, in fact, approve the Application for registration.

22. Accordingly, Applicant’s Application is invalid on the ground of fraud and should be refused registration.

If Applicant obtains such rights as conferred under the Principal Register of the Lanham Act, it will obtain at least a *prima facie* exclusive right to use its alleged trademark, and CA’DA MOSTO will be subjected to great and irreparable damage, and Applicant will enjoy unlawful gain and advantage to which it is not entitled under the Lanham Act.

WHEREFORE, CA’DA MOSTO believes and avers that it is being, and will continue to be, damaged by the registration of the Application, and respectfully requests that the Application be rejected, that no registration be issued thereon to Applicant, and that the Opposition be sustained in favor of CA’DA MOSTO.

Respectfully Submitted,

Dated: Salt Lake City, Utah  
11 November 2013

WELLS IP LAW, LLC

By: s/Nicholas D. Wells/

Nicholas D. Wells  
299 S. Main St., Suite 1300  
Salt Lake City, Utah 84111  
(801) 444-7143

Attorney for Opposer  
CA'DA MOSTO S.P.A.



**CERTIFICATE OF SERVICE**

I hereby certify that on the 11th day of November, 2013, I served a copy of this **NOTICE OF OPPOSITION** on the Applicant, as designated below, by placing said copy in the United States Mail, first class, postage prepaid, addressed as follows:

-SEVNTY9  
517 E 60TH DR  
MERRILLVILLE, IN 46410-3068

By: s/Nicholas D. Wells/

Nicholas D. Wells  
WELLS IP LAW, LLC  
299 S. Main St., Suite 1300  
Salt Lake City, Utah 84111

The USPTO will perform system maintenance on Sunday, October 27, 2013 and TSDR will be unavailable from 0:01 until 8:00 a.m. EST. We are sorry for any inconvenience this may cause.

**STATUS****DOCUMENTS**[Back to Search](#)[Print](#)

**Generated on:** This page was generated by TSDR on 2013-10-30 10:06:42 EDT

**Mark:** SEVENTY



**US Serial Number:** 76399742

**Application Filing Date:** Apr. 24, 2002

**US Registration Number:** 3342381

**Registration Date:** Nov. 27, 2007

**Register:** Principal

**Mark Type:** Trademark

**Status:** Registered. The registration date is used to determine when post-registration maintenance documents a

**Status Date:** Nov. 27, 2007

**Publication Date:** Jan. 02, 2007

## Mark Information

**Mark Literal Elements:** SEVENTY

**Standard Character Claim:** No

**Mark Drawing Type:** 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

**Design Search Code(s):** 26.11.01 - Rectangles as carriers or rectangles as single or multiple line borders

## Related Properties Information

**Claimed Ownership of US** [1663477](#)  
**Registrations:**

## Foreign Information

**Priority Claimed:** Yes

**Foreign Application** 002596609  
**Number:**

**Foreign Application Filing** Feb. 28, 2002  
**Date:**

**Foreign Registration** 002596609  
**Number:**

**Foreign Registration Date:** Nov. 30, 2005

**Foreign** EUROPEAN (EU) OFFICE FOR HARMONIZATION  
**Application/Registration** IN THE INTERNAL MARKET (OHIM)  
**Country:**

**Foreign Expiration Date:** Feb. 28, 2012

## Goods and Services

**Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** CLOTHING, NAMELY, VESTS, PULLOVERS, SWEATSHIRTS, SUSPENDERS AND FOULARDS, SHIRT TROUSERS, SKIRTS, MEN'S SUITS AND WOMEN'S DRESSES, JACKETS, HEAVY JACKETS, OVER CLOAKS, RAINCOATS, WIND-RESISTANT JACKETS, STOCKINGS, SOCKS, GYMSUITS, BELTS, TIE FOOTWEAR, HEADWEAR

**International Class(es):** 025 - Primary Class

**U.S Class(es):** 022, 039

**Class Status:** ACTIVE

**Basis:** 44(e)

### Basis Information (Case Level)

|                           |                               |           |
|---------------------------|-------------------------------|-----------|
| <b>Filed Use:</b> No      | <b>Currently Use:</b> No      | <b>At</b> |
| <b>Filed ITU:</b> Yes     | <b>Currently ITU:</b> No      | <b>A</b>  |
| <b>Filed 44D:</b> Yes     | <b>Currently 44D:</b> No      | <b>At</b> |
| <b>Filed 44E:</b> No      | <b>Currently 44E:</b> Yes     | <b>At</b> |
| <b>Filed 66A:</b> No      | <b>Currently 66A:</b> No      |           |
| <b>Filed No Basis:</b> No | <b>Currently No Basis:</b> No |           |

### Current Owner(s) Information

|  |  |
|--|--|
| <b>Owner Name:</b> CA'DA MOSTO S.P.A.                                |  |
| <b>Owner Address:</b> VIA VENEZIA 146<br>SCORZE' (VE) 30037<br>ITALY |  |
| <b>Legal Entity Type:</b> JOINT STOCK COMPANY                        | <b>State or Country Where Organized:</b> ITALY |

### Attorney/Correspondence Information

#### Attorney of Record

**Attorney Name:** Ronald J. Tanis

**Docket Number:** GLP TM Case

#### Correspondent

**Correspondent Name/Address:** RONALD J TANIS  
FLYNN, THIEL, BOUTELL & TANIS PC  
2026 RAMBLING RD  
KALAMAZOO, MICHIGAN 49008-1631  
UNITED STATES

**Phone:** (616) 381-1156

**Fax:** (616) 381-5465

#### Domestic Representative

**Domestic Representative:** FLYNN, THIEL, BOUTELL & TANIS, P.C.

**Phone:** (616) 381-1156

**Name:****Fax:** (616) 381-5465**Prosecution History**

| <b>Date</b>   | <b>Description</b>                          | <b>Proceeding Number</b> |
|---------------|---|--------------------------|
| Nov. 27, 2007 | REGISTERED-PRINCIPAL REGISTER               |                          |
| Oct. 20, 2007 | 1(B) BASIS DELETED; PROCEED TO REGISTRATION | 70565                    |
| Sep. 20, 2007 | NOTICE OF ALLOWANCE CANCELLED               | 70565                    |
| Sep. 26, 2007 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP |                          |
| Sep. 20, 2007 | TEAS DELETE 1(B) BASIS RECEIVED             |                          |
| Mar. 27, 2007 | NOA MAILED - SOU REQUIRED FROM APPLICANT    |                          |
| Jan. 02, 2007 | PUBLISHED FOR OPPOSITION                    |                          |
| Dec. 13, 2006 | NOTICE OF PUBLICATION                       |                          |
| Nov. 13, 2006 | LAW OFFICE PUBLICATION REVIEW COMPLETED     | 73787                    |
| Nov. 03, 2006 | ASSIGNED TO LIE                             | 73787                    |
| Oct. 27, 2006 | APPROVED FOR PUB - PRINCIPAL REGISTER       |                          |
| Oct. 27, 2006 | TEAS/EMAIL CORRESPONDENCE ENTERED           | 76539                    |
| Oct. 13, 2006 | CORRESPONDENCE RECEIVED IN LAW OFFICE       | 76539                    |
| Oct. 13, 2006 | TEAS RESPONSE TO OFFICE ACTION RECEIVED     |                          |
| Apr. 17, 2006 | INQUIRY AS TO SUSPENSION MAILED             |                          |
| Apr. 14, 2006 | SUSPENSION INQUIRY WRITTEN                  | 62126                    |
| Sep. 23, 2005 | LETTER OF SUSPENSION MAILED                 |                          |
| Sep. 23, 2005 | SUSPENSION LETTER WRITTEN                   | 62126                    |
| Sep. 22, 2005 | AMENDMENT FROM APPLICANT ENTERED            | 78288                    |
| Sep. 06, 2005 | CORRESPONDENCE RECEIVED IN LAW OFFICE       | 78288                    |
| Sep. 06, 2005 | PAPER RECEIVED                              |                          |
| Apr. 21, 2005 | LETTER OF SUSPENSION MAILED                 |                          |
| Apr. 21, 2005 | SUSPENSION LETTER WRITTEN                   | 62126                    |
| Apr. 20, 2005 | AMENDMENT FROM APPLICANT ENTERED            | 69350                    |
| Mar. 21, 2005 | CORRESPONDENCE RECEIVED IN LAW OFFICE       | 69350                    |
| Mar. 21, 2005 | PAPER RECEIVED                              |                          |
| Oct. 25, 2004 | INQUIRY AS TO SUSPENSION MAILED             |                          |
| Oct. 22, 2004 | SUSPENSION INQUIRY WRITTEN                  | 62126                    |

|               |  |       |
|---------------|--|-------|
| Mar. 04, 2004 | LETTER OF SUSPENSION MAILED              |       |
| Feb. 02, 2004 | CORRESPONDENCE RECEIVED IN LAW<br>OFFICE |       |
| Feb. 06, 2004 | CASE FILE IN TIGRS                       |       |
| Feb. 02, 2004 | PAPER RECEIVED                           |       |
| Aug. 01, 2003 | INQUIRY AS TO SUSPENSION MAILED          |       |
| Jan. 22, 2003 | LETTER OF SUSPENSION MAILED              |       |
| Dec. 20, 2002 | CORRESPONDENCE RECEIVED IN LAW<br>OFFICE |       |
| Dec. 20, 2002 | PAPER RECEIVED                           |       |
| Aug. 29, 2002 | NON-FINAL ACTION MAILED                  |       |
| Aug. 26, 2002 | ASSIGNED TO EXAMINER                     | 62126 |

### TM Staff and Location Information

TM Staff Information - None

#### File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Nov. 27, 2007

[Assignment Abstract Of Title Information - Click to Load](#)

[Proceedings - Click to Load](#)